

Effective 5/12/2020

11-14-501 Creation and perfection of government security interests.

- (1) As used in this section:
 - (a) "Bonds" means any bond, note, lease, or other obligation of a governmental unit.
 - (b)
 - (i) "General obligation bond" means a bond, note, warrant, certificate of indebtedness, or other obligation of a local political subdivision that:
 - (A) is payable in whole or in part from revenues derived from ad valorem taxes; and
 - (B) constitutes an indebtedness within the meaning of any applicable constitutional or statutory debt limitation.
 - (ii) "General obligation bond" includes a general obligation tax, revenue, or bond anticipation note issued by a local political subdivision that is payable in whole or in part from revenues derived from ad valorem taxes.
 - (c) "Governmental unit" has the meaning assigned in Section 70A-9a-102.
 - (d) "Pledge" means the creation of a security interest of any kind.
 - (e) "Property" means any property or interests in property, other than real property.
 - (f) "Security agreement" means any resolution, ordinance, indenture, document, or other agreement or instrument under which the revenues, fees, rents, charges, taxes, or other property are pledged to secure the bonds.
- (2) This section expressly governs the creation, perfection, priority, and enforcement of a security interest created by the state or a governmental unit of the state, notwithstanding anything in Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions, to the contrary.
- (3)
 - (a) The revenues, fees, rents, charges, taxes, or other property pledged by a governmental unit for the purpose of securing its bonds are immediately subject to the lien of the pledge.
 - (b)
 - (i) The lien is a perfected lien upon the effective date of the security agreement.
 - (ii) The physical delivery, filing, or recording of a security agreement or financing statement under the Uniform Commercial Code or otherwise, or any other similar act, is not necessary to perfect the lien.
 - (c) The lien of any pledge is valid, binding, perfected, and enforceable from the time the pledge is made.
 - (d) The lien of the pledge has priority:
 - (i) based on the time of the creation of the pledge unless otherwise provided in the security agreement; and
 - (ii) as against all parties having claims of any kind in tort, contract, or otherwise against the governmental unit, regardless of whether or not the parties have notice of the lien.
 - (e) Each pledge and security agreement made for the benefit or security of any of the bonds shall continue to be effective until:
 - (i) the principal, interest, and premium, if any, on the bonds have been fully paid;
 - (ii) provision for payment has been made; or
 - (iii) the lien created by the security agreement has been released by agreement of the parties in interest or as provided by the security agreement that created the lien.
- (4)
 - (a) General obligation bonds issued and sold by or on behalf of a local political subdivision shall be secured by a first statutory lien on all revenues received pursuant to the levy and collection of ad valorem taxes.
 - (b) The lien described in Subsection (4)(a):

- (i) arises and attaches immediately to the ad valorem tax revenues without the need for any action or authorization by the local political subdivision;
 - (ii) is valid and binding from the time the general obligation bonds are executed and delivered; and
 - (iii) is effective, binding, and enforceable against the local political subdivision, its successors, transferees, and creditors, and all others asserting rights to the ad valorem tax revenues.
- (c) A lien described in Subsection (4)(a) is enforceable against the parties described in Subsection (4)(b)(iii):
- (i) regardless of whether the parties described in Subsection (4)(b)(iii) have notice of the lien; and
 - (ii) without the need for any physical delivery, recordation, filing, or further action.
- (5) Any amounts appropriated or added to the tax levy to pay principal of and premium and interest on general obligation bonds:
- (a) shall be applied solely to the payment of those general obligation bonds; and
 - (b) may not be used for any other purpose, except as provided by law.
- (6) This section applies to all revenues received pursuant to the levy and collection of the ad valorem tax regardless of the date on which the general obligation bonds were issued.
- (7) This section applies to all bonds, including bonds issued before or after the effective date of this section.

Amended by Chapter 366, 2020 General Session